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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

**2 MIGRATION AMENDMENT (DESIGNATED UNAUTHORISED ARRIVALS) BILL 2006—
STATEMENTS BY LEAVE**

The Leader of the Opposition in the Senate (Senator Evans) and the Minister for Justice and Customs (Senator Ellison), by leave, made statements relating to consideration of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

3 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2006

Proposed instruction to committee of the whole: Order of the day read for the adjourned debate on the motion of the Leader of the Opposition in the Senate (Senator Evans) and Senators Bartlett and Siewert—That it be an instruction to the committee of the whole that:

- (1) The Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 be divided into two bills, as follows:
 - (a) a Bill for an Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, and for other purposes; and
 - (b) a Bill for an Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, to restrict certain entitlements of traditional Aboriginal land owners and for other purposes.
- (2) The first bill consist of the enacting words, clauses 1, 2 and 3 and Schedule 1, all items except: item 46, section 19A; items 50 and 51; item 52, section 21A; item 65, section 28C; items 172 to 186; and item 192, subsections 67A(12) to (17) of the original bill, renumbered as necessary; and that the second bill consist of: Schedule 1, item 46, section 19A; items 50 and 51; item 52, section 21A; item 65, section 28C; items 172 to 186; and item 192, subsections 67A(12) to (17) of the original bill, renumbered as necessary.
- (3) The following amendments be made to the second bill:
 - (a) title, insert the title as shown in paragraph (1)(b) of this order;
 - (b) after the title, insert the words of enactment; and
 - (c) after the words of enactment, insert the following clauses:

1 Short title

This Act may be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 2) 2006*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

- (4) That the bills as amended by this order be printed.

Debate resumed.

Question put.

The Senate divided—

AYES, 36

Senators—

Allison	Faulkner	Marshall	Ray
Bartlett	Fielding	McEwen	Sherry
Bishop	Forshaw	McLucas	Siewert
Brown, Bob	Hogg	Milne	Stephens
Brown, Carol	Hurley	Moore	Sterle
Campbell, George	Hutchins	Murray	Stott Despoja
Carr	Kirk	Nettle	Webber (Teller)
Conroy	Ludwig	O'Brien	Wong
Evans	Lundy	Polley	Wortley

NOES, 38

Senators—

Abetz	Coonan	Joyce	Payne
Adams	Eggleston (Teller)	Kemp	Ronaldson
Barnett	Ellison	Lightfoot	Santoro
Bernardi	Ferguson	Macdonald, Ian	Scullion
Boswell	Ferris	Macdonald, Sandy	Troeth
Brandis	Fierravanti-Wells	Mason	Trood
Calvert	Fifield	McGauran	Vanstone
Campbell, Ian	Heffernan	Nash	Watson
Chapman	Humphries	Parry	
Colbeck	Johnston	Patterson	

Question negatived.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for the Arts and Sport (Senator Kemp) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bill.

Senator Kemp moved the following requests for amendments together by leave:

That the House of Representatives be requested to make the following amendments:

Schedule 1, item 46, page 22 (line 31) to page 23 (line 11), omit subsections 19A(6) and (7), substitute:

(6) A lease granted under this section must not make provision for the lessee to make a payment to a person other than the lessor.

Schedule 1, item 177, page 70 (line 7), omit “rent”, substitute “amounts”.

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported progress.

4 QUESTIONS

Questions without notice were answered.

5 ESTIMATES HEARINGS—QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION

Senator Carr, pursuant to standing order 74, asked the Minister for Immigration and Multicultural Affairs (Senator Vanstone) for an explanation of answers not being provided to questions placed on notice during the consideration by the Legal and Constitutional Legislation Committee of the 2006-07 Budget estimates (notice given 22 May 2006).

Senator Vanstone provided an explanation.

Senator Carr moved—That the Senate take note of the explanation.

Debate ensued.

Question put and passed.

6 MINISTER FOR IMMIGRATION AND MULTICULTURAL AFFAIRS—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Evans) moved—That the Senate take note of the answers given by the Minister for Immigration and Multicultural Affairs (Senator Vanstone) to questions without notice asked today.

Debate ensued.

Question put and passed.

7 ENVIRONMENT—ILLEGAL FISHING—SOUTHERN BLUEFIN TUNA—ANSWER TO QUESTION

Senator Siewert moved—That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Siewert today relating to illegal fishing and southern bluefin tuna.

Question put and passed.

8 PETITIONS

The following 5 petitions, lodged with the Clerk by the senators indicated, were received:

The President, from 16 petitioners, requesting that the Senate legislate to require that all Internet service providers offer a ‘clean feed’ Internet service to all households, schools and public libraries that blocks access to websites containing child pornography, acts of extreme violence and X-rated material.

The President, from 250 petitioners, requesting that the Senate call on the Government to support the International Coalition to Investigate the Persecution of Falun Gong and to demand that the Chinese Communist Party release all detained Falun Gong practitioners immediately.

Senator Allison, from 28 petitioners, requesting that the Senate take action to institute a special award for integrity and moral bravery.

Senator Marshall, from 13 petitioners, requesting that the Senate reject the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

Senator Marshall, from 564 petitioners, requesting that the Senate take action to ban the production, transfer, importation and use of anti-vehicle mines.

9 NOTICES

Notices of motion:

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Siewert): To move on the next day of sitting—That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 16 August 2006, from 4.30 pm, to take evidence for the committee's inquiry into water policy initiatives. (*general business notice of motion no. 486*)

Senator Siewert, the Leader of the Opposition in the Senate (Senator Evans) and Senator Bartlett: To move on the next day of sitting—That the Senate—

- (a) notes that the national Indigenous art awards ceremony was held in Darwin on 11 August 2006; and
- (b) congratulates all winners and particularly Ngoia Napaltjarri Pollard for her work 'Swamps West of Nyirripi' which won the main prize. (*general business notice of motion no. 487*)

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Bartlett): To move on the next day of sitting—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on women in sport and recreation in Australia be extended to 6 September 2006. (*general business notice of motion no. 488*)

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

- (a) notes the consensus statement released on 14 August 2006 on draft 'Medicare Item 16400: Antenatal care in rural and remote communities', which reflects the concerns of the Australian Nursing Federation, the Council of Remote Area Nurses of Australia, the Australian College of Midwives, the Association of Australian Rural Nurses, the Australian Practice Nurses Association, the Australian Nursing and Midwifery Council, the College of Nursing and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists;
- (b) acknowledges that the statement expresses concerns about the safety and quality of care that would be provided under the proposed new item within the current descriptor and explanatory notes, specifically:
 - (i) that safe and high quality antenatal care can only be provided by a qualified health professional with appropriate education, that is, a qualified midwife, a nurse with midwifery qualifications, an obstetrician or a general practitioner with a diploma in obstetrics or equivalent qualifications, and
 - (ii) that the signatories to the statement do not support the inclusion of nurses without midwifery qualifications on the list of eligible care providers for the item number 16400 descriptor and explanatory notes; and
- (c) calls on the Government to modify the item so that only adequately qualified professionals are able to provide antenatal care. (*general business notice of motion no. 489*)

Senator Bartlett: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) alarming rates of deforestation are occurring in south east Asia and the Pacific region through illegal and unsustainable logging practices,
- (ii) unsustainable management of natural resources will have long-term negative economic, environmental and social consequences for countries in which illegal logging is occurring,
- (iii) illegal trade of forest timber contributes to corruption, money laundering, organised crime and human rights abuses, and threatens the viability of responsible companies that want to invest in sustainable practices,
- (iv) there is a widespread presence of suspected illegal timber from Papua New Guinea and Indonesia in Australia,
- (v) the Government had committed to addressing the problem prior to the 2004 election and has since reaffirmed this commitment, and
- (vi) voluntary approaches to dealing with illegal timber and wood product imports will be neither fast enough nor effective enough; and

(b) calls on the Government to:

- (i) immediately legislate to stop the importation of illegal timber and wood products into Australia, and
- (ii) phase in over 2 years a requirement for only timber and wood products from credibly certified sources to be imported. (*general business notice of motion no. 490*)

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

(a) notes:

- (i) the launch on 1 August 2006 of the Clinton Climate Initiative, dedicated to fighting climate change in practical and measurable ways,
- (ii) that President Bill Clinton was joined by London Mayor Ken Livingstone, Los Angeles Mayor Antonio Villaraigosa and San Francisco Mayor Gavin Newsom to announce the first project of the initiative, and
- (iii) that urban areas are responsible for over 75 per cent of all greenhouse gas emissions in the world;

(b) notes that the initiative will:

- (i) create a purchasing consortium that will pool the purchasing power of the cities to lower the prices of energy saving products and accelerate the development and deployment of new energy saving and greenhouse gas reducing technologies and products,
- (ii) mobilise the best experts in the world to provide technical assistance to cities to develop and implement plans that will result in greater energy efficiency and lower greenhouse gas emissions, and
- (iii) create and deploy common measurement tools and Internet-based communications systems that will allow cities to establish a baseline on their greenhouse gas emissions, measure the effectiveness of the program in reducing these emissions and to share what works and what does not work with each other; and

- (c) commends this scheme and urges the Federal Government and state governments to assist local government in Australia's capital cities to join the initiative and introduce:
- (i) more energy efficient lighting for traffic and street lights,
 - (ii) building codes and practices that make use of more effective insulation, more energy efficient windows, more energy efficient heating and ventilation systems and more energy efficient lighting,
 - (iii) more energy efficient municipal water and sanitation systems,
 - (iv) localised, cleaner electric generation systems,
 - (v) biofuels or hybrid technologies for city buses, garbage trucks and other vehicles,
 - (vi) schemes to reduce traffic congestion,
 - (vii) use of the biomass from city garbage dumps to generate electricity, and
 - (viii) more intelligent design of electricity grids both across the city and within office and municipal buildings. (*general business notice of motion no. 491*)

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

- (a) notes the evaluation, released in July 2006, of the South Australian Sexual Health and Relationships Education (Share) project 2003-2005 which:
- (i) recognised the Share program as current best practice in sex education, moving from a model of sex education focussing on the human reproductive system to a broader sexual health promotion encompassing sexual development, reproductive health, interpersonal relationships, affection, intimacy, body image and gender roles,
 - (ii) found it essential that sexual health and relationships education acknowledges young people as diverse and sexual beings, provides an appropriate and comprehensive curriculum context, is positive about sexuality, moves beyond information provision, addresses issues of gender and the social and cultural world in which young people make decisions and refrains from teaching abstinence alone, and
 - (iii) placed a high priority on supporting the professional development and training of teachers with well-resourced, sympathetic experts to support, guide and advise; and
- (b) calls on the Government to take to the next meeting of education ministers a proposal to develop a national framework of comprehensive, evidence-based sex education for students in all Australian schools. (*general business notice of motion no. 492*)

The Minister for the Arts and Sport (Senator Kemp): To move on the next day of sitting—That the following matter be referred to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by the first sitting day in 2007:

Australia's Indigenous visual arts and craft sector, with particular reference to:

- (a) the current size and scale of Australia's Indigenous visual arts and craft sector;
- (b) the economic, social and cultural benefits of the sector;
- (c) the overall financial, cultural and artistic sustainability of the sector;
- (d) the current and likely future priority infrastructure needs of the sector;

- (e) opportunities for strategies and mechanisms that the sector could adopt to improve its practices, capacity and sustainability, including to deal with unscrupulous or unethical conduct;
- (f) opportunities for existing government support programs for Indigenous visual arts and crafts to be more effectively targeted to improve the sector's capacity and future sustainability; and
- (g) future opportunities for further growth of Australia's Indigenous visual arts and craft sector, including through further developing international markets.

Senator Abetz: To move on 16 August 2006—That the Senate—

- (a) dissociates itself from the notice of motion given on 9 May 2006 by the Leader of the Australian Greens (Senator Bob Brown) relating to the Exclusive Brethren;
- (b) regrets the ongoing deferral of the motion by Senator Bob Brown;
- (c) condemns the use of parliamentary processes to vilify lawful religious minorities; and
- (d) calls on Senator Bob Brown to withdraw his motion immediately. (*general business notice of motion no. 493*)

Senator Milne: To move on the next day of sitting—That the Senate—

- (a) notes the admission by the Centre for Low Emission Technology that, even if carbon capture and storage technology were to eventually prove 100 per cent effective, tailpipe greenhouse gas emissions from vehicles using fuel produced from coal would be the same as conventional fuels; and
- (b) calls on the Government:
 - (i) not to exacerbate Australia's greenhouse gas emissions by entrenching dependence on emission intensive technologies, and
 - (ii) to shift the research priority away from coal to liquids technology toward greenhouse-friendly alternatives, especially research into producing ethanol from lignocellulose. (*general business notice of motion no. 494*)

Intention to withdraw: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Watson), pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw notices of motion standing in his name as follows:

Business of the Senate notices of motion nos 1 and 4 for 8 sitting days after today for the disallowance of the following instruments:

Aviation Transport Security Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 40 and made under the *Aviation Transport Security Act 2004*.

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 2), as contained in Select Legislative Instrument 2006 No. 9 and made under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*.

Business of the Senate notices of motion nos 1, 3, 4, 5, 6, 7, 8, 9 and 10 for 11 sitting days after today for the disallowance of the following instruments:

Banking (Prudential Standard) Determination No. 1 of 2006, made under paragraphs 11AF(1)(a) and (b) of the *Banking Act 1959*.

Determination of Patient Contribution HIB 07/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Determination of Patient Contribution HIB 08/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Determination of Patient Contribution HIB 09/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Determination of Patient Contribution HIB 10/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Determination of Patient Contribution HIB 11/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Determination of Patient Contribution HIB 12/2006, made under subsection 3(1) of the *Health Insurance Act 1973*.

Insurance (Prudential Standard) Determination No. 4 of 2006, made under subsection 32(1) of the *Insurance Act 1973*.

Life Insurance (Prudential Standard) Determination No. 1 of 2006, made under paragraph 230A(1)(a) of the *Life Insurance Act 1995*.

Senator Watson, by leave, made a statement relating to the notice of intention.

10 LEAVE OF ABSENCE

Senator George Campbell, by leave, moved—That leave of absence be granted to Senator Crossin from 14 August to 17 August 2006, on account of parliamentary business overseas.

Question put and passed.

11 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 485 standing in the name of Senator Siewert for today, relating to water management, postponed till 15 August 2006.

12 MIGRATION LEGISLATION AMENDMENT (PROVISIONS RELATING TO CHARACTER AND CONDUCT) BILL 2006

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 484—That the following bill be introduced:

A Bill for an Act to remove unnecessary and unjust ministerial discretion relating to assessments of the character and conduct of visa applicants, and for related purposes.

Question put and passed.

Senator Bartlett presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Bartlett moved—That this bill be now read a second time.

Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

13 URGENCY MOTION WITHDRAWN

The Deputy President (Senator Hogg) informed the Senate that the Leader of the Australian Democrats (Senator Allison) had withdrawn the urgency motion which she had indicated she intended to move today relating to petrol prices.

14 ENVIRONMENT—ENERGY INITIATIVES—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Justice and Customs (Senator Ellison) tabled the following document:

Environment—Energy initiatives—Ministerial statement by the Prime Minister (Mr Howard), dated 14 August 2006.

Senator O'Brien, by leave, moved—That the Senate take note of the document.

Debate ensued.

Question put and passed.

**15 INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—REPORT—
REVIEW OF ADMINISTRATION AND EXPENDITURE: AUSTRALIAN INTELLIGENCE
ORGANISATIONS**

Senator Ferguson, on behalf of the Parliamentary Joint Committee on Intelligence and Security, tabled the following report:

Intelligence and Security—Joint Statutory Committee—Review of administration and expenditure: Australian intelligence organisations—Number 4: Recruitment and training—Report, dated August 2006.

Senator Ferguson, by leave, moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

16 TREATIES—JOINT STANDING COMMITTEE—75TH REPORT

Senator Wortley, on behalf of the Joint Standing Committee on Treaties, tabled the following report:

Treaties—Joint Standing Committee—75th report—Treaties tabled on 11 October 2005 (2), 28 February and 28 March 2006 (2), dated June 2006.

Senator Wortley, by leave, moved—That the Senate take note of the report.

Question put and passed.

**17 AUSTRALIAN PARLIAMENTARY OBSERVER DELEGATION TO SOLOMON ISLANDS—
DOCUMENT**

Senator Payne, by leave, tabled the following document:

National elections in Solomon Islands, 5 April 2006—Report of the Australian parliamentary observer delegation, dated July 2006.

Senator Payne, by leave, moved—That the Senate take note of the document.

Question put and passed.

18 INTER-PARLIAMENTARY UNION—WORKING GROUP ON REFORM—DOCUMENT

Senator Marshall, by leave, tabled the following document:

Inter-Parliamentary Union—Working Group on Reform—Report on the meeting, Geneva, Switzerland, 17 and 18 July 2006, dated August 2006.

19 DOCUMENTS

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

A New Tax System (Goods and Services Tax) Act—A New Tax System (Goods and Services Tax) Simplified Accounting Method Determination (No. 1) 2006 [F2006L02632]*.

Broadcasting Services Act—Variation to Licence Area Plan for Wagga Wagga Radio – No. 1 of 2006 [F2006L02610]*.

Corporations Act—ASIC Class Order [CO 06/636] [F2006L02636]*.

Currency Act—Currency (Perth Mint) Determination 2006 (No. 2) [F2006L02668]*.

Customs Act—Tariff Concession Orders—

0606999 [F2006L02621]*.

0608179 [F2006L02624]*.

0608185 [F2006L02625]*.

0608286 [F2006L02623]*.

0608553 [F2006L02641]*.

0608556 [F2006L02642]*.

0608561 [F2006L02622]*.

0608567 [F2006L02643]*.

0608616 [F2006L02620]*.

0608792 [F2006L02648]*.

0608793 [F2006L02649]*.

0608855 [F2006L02650]*.

0608963 [F2006L02651]*.

0609139 [F2006L02652]*.

Defence Act—Determinations under section 58B—Defence Determinations—

2006/28—Education costs for child.

2006/30—Army – High Readiness Reserve completion bonus.

2006/31—Air Force – High Readiness Reserve completion bonus.

2006/32—Navy completion bonus – Combat Systems Operator (sailors) employment categories.

2006/33—Completion bonus scheme – Navy Communication Information Systems category.

2006/34—Army's Reserve Response Force – annual bonus.

2006/35—Health support allowance and additional risk insurance.

2006/36—Home sale or purchase – amendment.

2006/37—Overseas conditions of service – post indexes.

2006/38—Travelling allowance and compassionate travel – amendment.

2006/39—Contribution for living-in accommodation.

2006/40—Reserve legal officer's sessional fee.

2006/41—Telephone costs, meals and technical amendments.

2006/42—Hardship allowance – amendment.

2006/43—Removal on ceasing continuous full-time service.

2006/44—Cadet forces allowance – amendment.

2006/45—District, Woomera, Port Wakefield, Scherger and Antarctic allowances – amendment.

2006/46—Overseas conditions of service – amendment.

Farm Household Support Act—Select Legislative Instrument 2006 No. 205—Farm Household Support Amendment Regulations 2006 (No. 1) [F2006L02560]*.

Judiciary Act—Select Legislative Instrument 2006 No. 218—High Court Amendment Rules 2006 (No. 2) [F2006L02612]*.

Marriage Act—Select Legislative Instrument 2006 No. 208—Marriage Amendment Regulations 2006 (No. 2) [F2006L02600]*.

Migration Act—Statement under section 91L for period 1 January to 30 June 2006, dated 27 June 2006.

Proceeds of Crime Act—Select Legislative Instrument 2006 No. 209—Proceeds of Crime Amendment Regulations 2006 (No. 3) [F2006L02566]*.

Therapeutic Goods Act—Select Legislative Instruments 2006 Nos—

212—Therapeutic Goods Amendment Regulations 2006 (No. 2) [F2006L02573]*.

214—Therapeutic Goods (Medical Devices) Amendment Regulations 2006 (No. 1) [F2006L02575]*.

Therapeutic Goods (Charges) Act—Select Legislative Instrument 2006 No. 213—Therapeutic Goods (Charges) Amendment Regulations 2006 (No. 1) [F2006L02570]*.

Trade Practices Act—Select Legislative Instrument 2006 No. 217—Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2006 (No. 1) [F2006L02635]*.

* Explanatory statement tabled with legislative instrument.

20 COMMITTEES—APPOINTMENT OF MEMBER

The Acting Deputy President (Senator Watson) informed the Senate that the President had received a letter nominating a senator to be a member of committees.

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That Senator Kirk be appointed as a participating member of the Community Affairs Legislation and References Committees.

Question put and passed.

21 THERAPEUTIC GOODS AMENDMENT BILL (NO. 3) 2006

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL AND QUARANTINE) BILL 2006

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 368, dated 10 August 2006—A Bill for an Act to amend the *Therapeutic Goods Act 1989*.

Message no. 369, dated 10 August 2006—A Bill for an Act to amend the law relating to agriculture, fisheries and forestry, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ellison moved—That these bills be now read a second time.

On the motion of Senator Ellison the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Ellison moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

22 MIGRATION AMENDMENT (DESIGNATED UNAUTHORISED ARRIVALS) BILL 2006

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 370, dated 14 August 2006—A Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

23 PROCEDURE—STANDING COMMITTEE—FIRST REPORT OF 2006—CONSIDERATION

Order of the day read for the consideration of the Procedure Committee's first report of 2006.

The Minister for Justice and Customs (Senator Ellison) moved—That—

- (1) The standing orders and other orders of the Senate be amended as set out in the report with effect from 11 September 2006.
- (2) The temporary order relating to substitute members of committees, as set out in the report, be adopted with effect from 11 September 2006 till the first sitting day in 2007.

Debate ensued.

Question put.

The Senate divided—

AYES, 33

Senators—

Abetz	Ellison	Macdonald, Ian	Ronaldson
Adams	Ferguson	Macdonald, Sandy	Scullion
Barnett	Ferris (Teller)	Mason	Troeth
Bernardi	Fierravanti-Wells	McGauran	Trood
Boswell	Fifield	Minchin	Vanstone
Brandis	Heffernan	Nash	Watson
Calvert	Joyce	Parry	
Colbeck	Kemp	Patterson	
Eggleston	Lightfoot	Payne	

NOES, 32

Senators—

Allison	Fielding	McEwen	Ray
Bartlett	Forshaw	McLucas	Sherry
Brown, Bob	Hurley	Milne	Siewert
Brown, Carol	Hutchins	Moore	Stephens
Carr	Kirk	Murray	Sterle
Conroy	Ludwig	Nettle	Stott Despoja
Evans	Lundy	O'Brien	Webber (Teller)
Faulkner	Marshall	Polley	Wortley

Question agreed to.

Accordingly the standing orders, procedural orders and resolutions of the Senate of continuing effect were amended and a temporary order adopted, as follows:

25 Legislative and general purpose

- (1) At the commencement of each Parliament, legislative and general purpose standing committees shall be appointed, as follows:
 - Community Affairs
 - Economics
 - Employment, Workplace Relations and Education
 - Environment, Communications, Information Technology and the Arts
 - Finance and Public Administration
 - Foreign Affairs, Defence and Trade
 - Legal and Constitutional Affairs
 - Rural and Regional Affairs and Transport.
- (2) The committees shall inquire into and report upon:
 - (a) matters referred to them by the Senate, including estimates of expenditure in accordance with standing order 26, bills or draft bills, annual reports in accordance with paragraph (20); and
 - (b) the performance of departments and agencies allocated to them.
- (3) References concerning departments and agencies shall be allocated to the committees in accordance with a resolution of the Senate allocating departments and agencies to the committees.
- (4) The committees shall inquire into and report upon matters referred to their predecessor committees appointed under this standing order and not disposed of by those committees, and in considering those matters may consider the evidence and records of those committees relating to those matters.
- (5) The committees shall consist of 8 senators, 4 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators.
- (6)
 - (a) The committees to which minority groups and independent senators make nominations shall be determined by agreement between the minority groups and independent senators, and, in the absence of agreement duly notified to the President, any question of the representation on a committee shall be determined by the Senate.
 - (b) The allocation of places on the committees amongst minority groups and independent senators shall be as nearly as practicable proportional to the numbers of those minority groups and independent senators in the Senate.
- (7)
 - (a) Senators may be appointed to the committees as substitutes for members of the committees in respect of particular matters before the committees.
 - (b) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators, participating members may be appointed to the committees.

- (c) Participating members may participate in hearings of evidence and deliberations of the committees, and have all the rights of members of committees, but may not vote on any questions before the committees.
 - (d) A participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (8) A committee may appoint sub-committees consisting of 3 or more of its members, and refer to any such sub-committee any of the matters which the committee is empowered to consider.
- (9)
- (a) Each committee shall elect as its chair a member nominated by the Leader of the Government in the Senate.
 - (b) Each of 6 committees shall elect as its deputy chair a member nominated by the Leader of the Opposition in the Senate, and each of 2 committees shall elect as its deputy chair a member of a minority group in the Senate.
 - (c) The deputy chairs to which members nominated by the Leader of the Opposition in the Senate and members of minority groups are elected shall be determined by agreement between the opposition and minority groups, and, in the absence of agreement duly notified to the President, any question of the allocation of deputy chairs shall be determined by the Senate.
 - (d) Each committee shall elect one of its members as its deputy chair and the member so elected shall act as the chair of the committee when the member elected as chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
 - (e) When votes on a question before a committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.
 - (f) The chair, or the deputy chair when acting as chair, may appoint another member of a committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.
- (10) The chairs and deputy chairs of the committees, together with the chairs and deputy chairs of any select committees appointed by the Senate, shall constitute the Chairs' Committee, which may meet with the Deputy President in the chair, and may consider and report to the Senate on any matter relating to the operations of the committees.
- (11) Except as otherwise provided by the standing orders, the reference of a matter to a committee shall be on motion after notice, and such notice of motion may be given:
- (a) in the usual manner when notices are given; or
 - (b) at any other time by a senator:
 - (i) stating its terms to the Senate, when no other business is before the chair, or
 - (ii) delivering a copy to the Clerk, who shall report it to the Senate at the first opportunity;
- and shall be placed on the Notice Paper for the next sitting day as business of the Senate and, as such, shall take precedence of government and general business set down for that day.

- (12) Matters referred to the committees should relate to subjects which can be dealt with expeditiously.
- (13) A committee shall take care not to inquire into any matters which are being examined by a select committee of the Senate appointed to inquire into such matters and any question arising in this connection may be referred to the Senate for determination.
- (14) A committee and any sub-committee shall have power to send for persons and documents, to move from place to place, and to meet and transact business in public or private session and notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.
- (15) All documents received by a committee during an inquiry shall remain in the custody of the Senate after the completion of that inquiry.
- (16) A committee shall be empowered to print from day to day any of its documents and evidence. A daily Hansard shall be published of public proceedings of a committee.
- (17) A committee shall be provided with all necessary staff, facilities and resources and shall be empowered to appoint persons with specialist knowledge for the purposes of the committee, with the approval of the President.
- (18) A committee may report from time to time its proceedings and evidence taken and any recommendations, and shall make regular reports on the progress of its proceedings.
- (19) A committee may authorise the broadcasting of its public hearings, under such rules as the Senate provides.
- (20) Annual reports of departments and agencies shall stand referred to the committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:
 - (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory.
 - (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.
 - (c) Investigate and report to the Senate on any lateness in the presentation of annual reports.
 - (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate.
 - (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates.
 - (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.
 - (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
 - (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

26 Estimates

- (1) Annual and additional estimates, contained in the documents presenting the particulars of proposed expenditure and additional expenditure, shall be referred to the legislative and general purpose standing committees for examination and report.
- (2) The committees shall hear evidence on the estimates in public session.
- (3) Not more than 4 committees shall hear evidence on the estimates simultaneously.
- (4) When a committee hears evidence on the estimates, the chair shall, without motion, call on items of expenditure in the order decided upon and declare the proposed expenditure open for examination.
- (5) The committees may ask for explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure.
- (6) The report of a committee on the estimates may propose the further consideration of any items.
- (7) A Hansard report of the committees' hearings of evidence on the estimates shall be circulated, in a manner similar to the daily Senate Hansards, as soon as practicable after each day's proceedings.
- (8) Participating membership of committees shall not have effect in respect of proceedings on estimates, other than the formation of a quorum, but any senator may attend a meeting of a committee in relation to estimates, question witnesses and participate in the deliberations of the committee at such a meeting and add a reservation to a report relating to estimates.
- (9) After a committee has considered proposed expenditure referred to it by the Senate and agreed to its report to the Senate, the committee shall fix:
 - (a) a day for the submission to the committee of any written answers or additional information relating to the proposed expenditure; and
 - (b) in respect of the annual estimates only, a day for the commencement of supplementary meetings of the committee to consider matters relating to the proposed expenditure.

The day fixed under subparagraph (9)(b) shall be not less than 10 days after the day fixed under subparagraph (9)(a).
- (10) A senator may lodge with a committee, not less than 3 working days before the day fixed under subparagraph (9)(b), notice of matters, relating to the written answers or additional information, or otherwise relating to the proposed expenditure referred to the committee, which the senator wishes to raise at the supplementary meetings of the committee. A notice shall be forwarded by the committee to the minister in the Senate responsible for the matters to which the notice relates.
- (11) A committee may determine at any time the number and duration of any supplementary meetings.
- (12) At a supplementary meeting, questions may be put to ministers or officers relating to matters of which notice has been given, and the proceedings of the committee shall be confined to those matters, but the committee shall otherwise conduct the proceedings in accordance with this standing order.

- (13) A committee may report to the Senate any recommendation for further action by the Senate arising from the committee's supplementary meetings.
- (14) Written questions relating to the estimates may be supplied to the secretaries of the committees, who shall distribute them to the relevant departments and to members of the committees. Answers shall be supplied to, and circulated by, the secretaries.

74 Questions on notice

- (1) Notice of a question shall be given by a senator signing and delivering it to the Clerk, fairly written, printed, or typed. Notice may be given by one senator on behalf of another.
- (2) The Clerk shall place notices of questions on the Notice Paper in the order in which they are received.
- (3) The reply to a question on notice shall be given by delivering it to the Clerk, a copy shall be supplied to the senator who asked the question, the publication of the reply is then authorised, and the question and reply shall be printed in Hansard.
- (4) A senator who has received a copy of a reply pursuant to this standing order may, by leave, immediately after questions without notice, ask the question and have the reply read in the Senate.
- (5) If a minister does not answer a question on notice asked by a senator within 30 days of the asking of that question, or if a question taken on notice during a hearing of a legislative and general purpose standing committee considering estimates remains unanswered 30 days after the day set for answering the question, and a minister does not, within that period, provide to the senator who asked the question an explanation satisfactory to that senator of why an answer has not yet been provided:
 - (a) at the conclusion of question time on any day after that period, the senator may ask the relevant minister for such an explanation; and
 - (b) the senator may, at the conclusion of the explanation, move without notice – That the Senate take note of the explanation; or
 - (c) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister's failure to provide either an answer or an explanation.

115 Committal

- (1) After the second reading, a bill shall be considered in a committee of the whole immediately, unless:
 - (a) the bill is referred to a standing or select committee; or
 - (b) no senator has:
 - (i) circulated in the Senate a proposed amendment or request for amendment of the bill, or
 - (ii) required in debate or by notification to the chair that the bill be considered in committee of the whole.
- (2) After a bill has been read a second time a motion may be moved:
 - (a) without notice for referring the bill to a committee;
 - (b) on notice for an instruction to the committee of the whole.

- (3) The further consideration of a bill referred to a standing or select committee shall be an order of the day for:
 - (a) where a day is fixed for the report of the committee, that day; or
 - (b) where no day is fixed for the report of the committee, the sitting day next occurring after the day on which the committee reports on the bill.
- (4)
 - (a) Where proposed expenditure has been considered and reported on by a legislative and general purpose standing committee, an appropriation bill authorising that proposed expenditure shall not be considered in committee of the whole, unless, prior to the further consideration of the bill subsequent to the second reading, a senator has circulated in the Senate a proposed amendment or request for amendment of the bill.
 - (b) Where an appropriation bill is considered in committee of the whole in accordance with this paragraph:
 - (i) the only questions put by the chair shall be:
 - (A) that any amendment or request for amendment moved to the bill be agreed to, and
 - (B) that the bill be reported with any amendment or request for amendment agreed to by the committee; and
 - (ii) debate shall be confined to the purpose of any amendment or request for amendment moved to the bill.
 - (c) At any stage of the consideration of an appropriation bill, other than in committee of the whole, an amendment, other than an amendment or a request for an amendment to the bill, arising from a recommendation of a legislative and general purpose standing committee, may be moved to the question before the chair.
- (5) When the order of the day relating to a bill which is the subject of a committee report pursuant to standing order 24A is called on, the following procedures shall apply:
 - (a) A motion may be moved without notice that the report of the committee be adopted (if the committee has recommended amendments to the bill, this motion shall have the effect of amending the bill accordingly, but may not be moved if other proposed amendments to the bill have been circulated in the Senate by a senator).
 - (b) If a motion under subparagraph (a) is moved, following the disposal of that motion a motion may be moved by a minister, or, in respect of a bill introduced into either House of the Parliament other than by a minister, by the senator in charge of the bill, that consideration of the bill be an order of the day for a future day, or that the bill not be further proceeded with.
 - (c) If no motion under subparagraph (a) or (b) is agreed to, a motion may be moved without notice that the bill again be referred to the committee for reconsideration, provided that such motion:
 - (i) indicates the matters which the committee is to reconsider, and
 - (ii) fixes the day for the further report of the committee,

and if such motion is agreed to the bill shall stand referred to the committee, and the further consideration of the bill shall be an order of the day for the day fixed for the further report of the committee.

- (d) If no motion under subparagraph (b) or (c) is agreed to, consideration of the bill shall be resumed at the stage at which it was referred to the committee, provided that, if the consideration of the bill in committee of the whole has been concluded and the committee has recommended amendments to the bill or requests for amendments, the bill shall again be considered in committee of the whole.
- (6) On a motion on notice and a motion under this standing order to refer a bill to a committee, and on an amendment for that purpose to a question in respect of any stage in the passage of a bill after its second reading, a senator shall not speak for more than 5 minutes, and at the expiration of 30 minutes, if the debate be not sooner concluded, the President shall put the question on the motion and any amendments before the chair, but if a senator wishes to move a further amendment at that time, that amendment may be moved and shall be determined without debate.

Procedural orders and resolutions of the Senate of continuing effect—

Committees

6 Reference of Tax Expenditures Statement to committees considering estimates

The annual Tax Expenditures Statement stands referred to legislative and general purpose standing committees for consideration by the committees during their examination of the estimates of government expenditure under standing order 26.

Parliamentary secretaries

19 Powers

- (1) Any senator appointed a parliamentary secretary under the *Ministers of State Act 1952* may exercise the powers and perform the functions conferred upon ministers by the procedures of the Senate, but may not be asked or answer questions which may be put to ministers under standing order 72(1) or represent a Senate minister in relation to that minister's responsibilities before a legislative and general purpose standing committee considering estimates.
- (2) This order is of continuing effect.

Broadcasting of Senate and committee proceedings—

3 Broadcasting of proceedings of committees when considering estimates

The public proceedings of legislative and general purpose standing committees when considering estimates may be relayed within Parliament House and broadcast by radio and television stations in accordance with the conditions contained in paragraphs (4) and (5) of the order of the Senate relating to the broadcasting of committee proceedings, and in accordance with any further conditions, not inconsistent with the conditions contained in those paragraphs, determined by a committee in relation to the proceedings of that committee.

Temporary order—Substitute members of committees

The following operate as a temporary order until the first sitting day in 2007:

If a member of a committee appointed under standing order 25 is unable to attend a meeting of the committee, that member may in writing to the chair of the committee appoint a participating member to act as a substitute member of the committee at that meeting. If the member is incapacitated or unavailable, a letter to the chair of a committee appointing a participating member to act as a substitute member of the committee may be signed on behalf of the member by the leader of the party or group on whose nomination the member was appointed to the committee.

24 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2006

Order read for the further consideration of the bill in committee of the whole.

In the committee

Consideration resumed of the bill—and of the requests for amendments moved by the Minister for the Arts and Sport (Senator Kemp) (see entry no. 3).

Debate resumed.

Question—That the requests be agreed to—put and passed.

Question—That the bill be agreed to—divided in respect of Schedule 1, item 46, section 19B and item 201A.

Schedule 1, item 46, section 19B and item 201A debated.

Question—That Schedule 1, item 46, section 19B and item 201A stand as printed—put and negatived.

Senator Kemp moved the following amendments together by leave:

Clause 2, page 3 (table item 20), omit “201A”, substitute “201”.

Schedule 1, page 7 (after line 25), after item 4B, insert:

4BA Subsection 3(1) (subparagraph (a)(ii) of the definition of intending miner)

Omit “exploration retention lease or exploration retention licence, or has made an application for the grant of such a lease or licence”, substitute “exploration retention licence, or has made an application for the grant of an exploration retention licence”.

Schedule 1, item 46, page 22 (line 20), omit “person”, substitute “approved entity”.

Schedule 1, item 61, page 33 (after line 15), after paragraph 28(3)(b), insert:

(ba) section 19A (about grant of township leases);

Schedule 1, page 60 (after line 29), after item 124C, insert:

124D Subsection 46(1)

Omit “exploration retention lease (whether that licence or lease”, substitute “exploration retention licence (whether that exploration licence or exploration retention licence”.

Schedule 1, item 189, page 71 (line 28), omit “, (13)”.

Schedule 1, item 192, page 74 (line 16) to page 75 (line 9), omit subsections 67A(12) and (13), substitute:

- (12) This subsection applies in relation to an application:
 - (a) that was made under section 50 before the commencement of this subsection by or on behalf of Aboriginals claiming to have a traditional land claim to qualifying land (whether or not recommendations of the kind referred to in subparagraph 50(1)(a)(ii) have been made and whether or not the application covers other land); and
 - (b) that was given the land claim number prescribed by the regulations.

The traditional land claim is taken to have been finally disposed of:

 - (c) to the extent that it relates to qualifying land that is described in the regulations; and
 - (d) on the day on which the regulations take effect.
- (13) To avoid doubt, if regulations are made for the purposes of subsection (12) in relation to a particular application, then later regulations may also be made for the purposes of that subsection in relation to that application.

Schedule 1, item 192, page 75 (line 10), omit “subsections (12) and (13)”, substitute “subsection (12)”.

Schedule 1, item 192, page 75 (line 17) to page 76 (line 13), omit subsections 67A(15) and (16).

Schedule 1, item 193, page 78 (lines 8 and 9), omit “Aboriginals claiming to have the traditional land claim”, substitute “traditional Aboriginal owners of the area of land, or the part of the area of land, referred to in subsection (2)”.

Schedule 1, item 202, page 80 (line 24), omit “a person”, substitute “the Secretary of the Department, or an SES employee or acting SES employee in the Department”.

Schedule 1, item 202, page 80 (lines 27 to 30), omit subsection 76(1A).

Schedule 1, item 228, page 91 (lines 8 and 9), omit “, (9), (12) and (13)”, substitute “and (9)”.

Debate ensued.

At 9.50 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Moore) reported progress.

25 ADJOURNMENT

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.27 pm till Tuesday, 15 August 2006 at 12.30 pm.

26 ATTENDANCE

Present, all senators except Senator Crossin (on leave).

HARRY EVANS
Clerk of the Senate